



UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Industry and Security
Washington, D.C. 20230

June 8, 2004

Ms. Viji Shook
Raytheon Company
Corporate Export Licensing and Compliance Office
2000 E. El Segundo Blvd., EO/EI/C116
El Segundo, CA 90245

Dear Ms. Shook:

This letter is BIS's response to your April 12, 2004 request for an

advisory opinion regarding the export of Interface Data Processing Segment (IDPS) software and Field Terminal Segment (FTS) software including: source code and object code; and documentation including software specification, design documents, and user manuals developed by Raytheon Company's Intelligence and Information Systems for the U.S. Government National Polar-Orbiting Operational Environmental Satellite System (NPOESS) Integrated Program Office (IPO) for worldwide distribution on the Internet.

Our response is based on the following representation of Raytheon made either in that April 21 request or in a telephone conference call including Tom Konchan, Paula Wilson and yourself and William Arvin of the Regulatory Policy Division on May 13, 2004:

The software and documentation is to be made available over the Internet;

The software and support documentation will be provided free through a public website accessible on the Internet;

There will be no restrictions on the distribution of the software or documentation and no requirements to register those that download the software; and

The software has no encryption capabilities.

You requested confirmation that posting the software and documentation on the Internet in the manner that you describe would make it Published Information and Software in accordance with §734.7 of the Export Administration Regulations (15 CFR §734.7).

Section 734.3(b)(3) of the Export Administration Regulations provides that "[p]ublicly available technology and software, except software controlled for "EI" reasons under ECCN 5D002 on the



Commerce Control List and mass market encryption software with [a] symmetric key length exceeding 64-bits controlled under ECCN 5D992, that:

(i) Are already published or will be published as described in §734.7 of this part . . . " are not subject to the Export Administration Regulations. Section 734.7(a) provides that "Information is 'published' when it becomes generally accessible to the interested public in any form." Section 734.7(b) provides that "Software and information is published when it is available for general distribution either for free or at a price that does not exceed the cost of reproduction and distribution."

BIS interprets posting of technology on the Internet in a manner that allows it to be downloaded by anyone at no cost, and without restriction, as meeting the requirements of §734.7(a). BIS also interprets posting of technology and of software that contains no encryption capability on the Internet in a manner that it may be downloaded by anyone at no cost, and without restriction, as meeting the requirements of §734.4(b).

Based on your representations as described herein, BIS concludes that your planned actions would meet the requirements of §734.3(b)(3) and posting the Interface Data Processing Segment (IDPS) software and Field Terminal Segment (FTS) software including source code and object code, and documentation including software specification, design documents, and user manuals, would make them not subject to the Export Administration Regulations.

This advisory opinion is limited to the effect of the actions described herein with respect to the Export Administration Regulations (15 C.F.R. parts 300 - 799). BIS does not express any opinion on whether other laws or contractual provisions may or may not restrict Raytheon from posting the information on the Internet.

Sincerely,


Hillary Hess
Director, Regulatory Policy Division